

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

ASHLEY KHADIVI,

Plaintiff,

vs.

KILOLO KIJAKAZI,

Acting Commissioner of Social Security,

Defendant.

Case No. 21-05059-CV-SW-WBG

ORDER

Pending is Plaintiff's Application for Attorney's Fees. Doc. 20. Plaintiff requests an award of attorney's fees pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$5,350.00. Doc. 20-1. In the application, Plaintiff's counsel concedes an EAJA award belongs to Plaintiff and is subject to offset to satisfy outstanding debt owed to the federal government. Doc. 20 at 1, n.1; *see also* 28 U.S.C. §2412(d)(1)(A) (directing the Court to award attorney fees to the prevailing party); *Astrue v. Ratliff*, 560 U.S. 586, 591-93 (2010) (holding an EAJA fee award is subject to offset for any debts owed to the federal government and shall not be paid directly to the prevailing party's attorney). Defendant does not object to the requested attorney's fees. Doc. 22 at 1.

Also pending is Plaintiff's Proposed Bill of Costs wherein she seeks reimbursement of the \$402.00 filing fee. Doc. 21. The filing fee is a cost that is distinguished from an expense under the EAJA. *See* 28 U.S.C. § 2412(a). Defendant did not respond to Plaintiff's Proposed Bill of Costs, and the time for doing so has passed.¹ L.R. 7.0(c)(2).

¹ In its response to Plaintiff's application for attorney fees, Defendant acknowledges reimbursement of the filing fee "should be made from the Judgment Fund." Doc. 22 at 1. Defendant goes on to request the Court "enter an order specifically awarding . . . costs in the amount of \$402.00 to be paid by the Judgment Fund." *Id.*

Upon review of Plaintiff's application for attorney's fees, the Court finds the requested fees are reasonable and **GRANTS** the application for attorney's fees. Defendant shall make the \$5,350.00 fee award payable to Plaintiff, subject to any pre-existing debt Plaintiff owes to the federal government. In addition, the Court **AWARDS** costs in the amount of \$402.00 to Plaintiff. Defendant shall reimburse Plaintiff's \$402.00 filing fee from the Judgment Fund.

IT IS SO ORDERED.

DATE: December 16, 2022

/s/ W. Brian Gaddy
W. BRIAN GADDY
UNITED STATES MAGISTRATE JUDGE